

Remarks

This Amendment is in response to the Office Action dated **January 15, 2009**. The Office Action rejected claims 1-9, 10 and 12-23 under 35 USC § 102(e) over von Oepen (WO 98/35634 or US Pat. No. 6,193,747); and rejected claim 8 under 35 USC § 103(a) over von Oepen.

In light of the following comments, Applicant requests reconsideration.

Claim Rejections – Section 102

The Office Action rejected claims 1-9, 10 and 12-23 under 35 USC § 102(e) over von Oepen. This rejection is *traversed*. Von Oepen fails to satisfy all of the elements claimed in independent claim 1. Therefore, Applicants request withdrawal of the rejection.

Applicant reiterates the comments made in the Amendment dated October 21, 2008 and again asserts that the Office Action has not satisfied the requirements of 37 CFR § 1.104(c)(2), which states, in part, “[t]he pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” The Office Action has failed to clearly explain how von Oepen satisfies the elements claimed in claim 1. As such, Applicant requests that the finality of the Office Action be withdrawn, and again requests a subsequent non-Final Office Action that clearly articulates structure in von Oepen that the Office considers to be equivalent to the elements of the pending claims in order to allow Applicant the opportunity to respond appropriately, in the event that the claims are not allowed.

Figures 4 and 5 of the immediate application are shown below for reference. A portion of a stent in a non-expanded state is therein depicted.

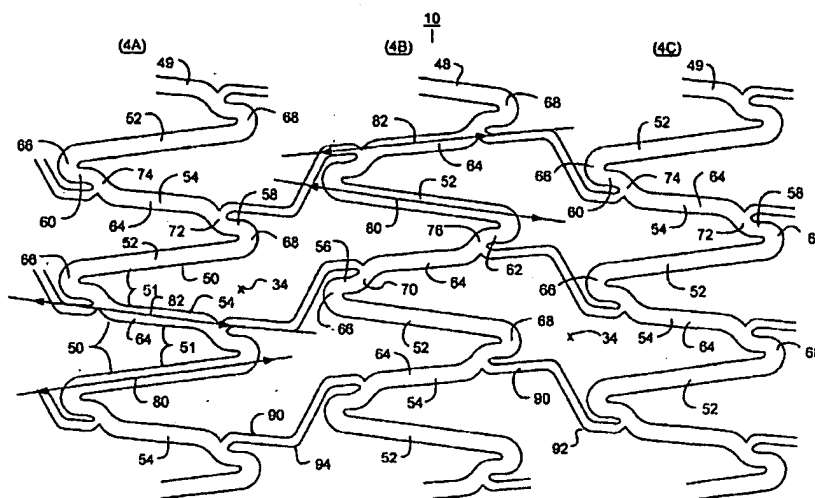


FIG. 4

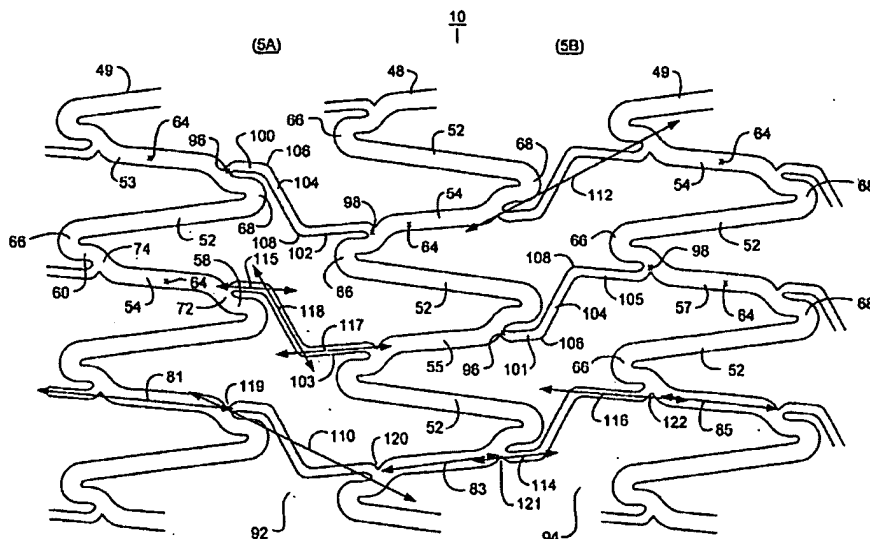


FIG. 5

As claimed in independent claim 1, and shown in Figures 4 and 5, the stent comprises:

a first expansion column [e.g., 4(A)] including individual first expansion struts [50] forming a plurality of first expansion strut pairs [e.g., 51 shown in column 4(A)], at least a portion of each first expansion strut pair having a stair-step region [e.g., shown approximately at 60], two adjacent first expansion strut pairs share a common strut;

a second expansion column [e.g., 4(B)] including individual second expansion struts forming a plurality of second expansion strut pairs [e.g., 51, but

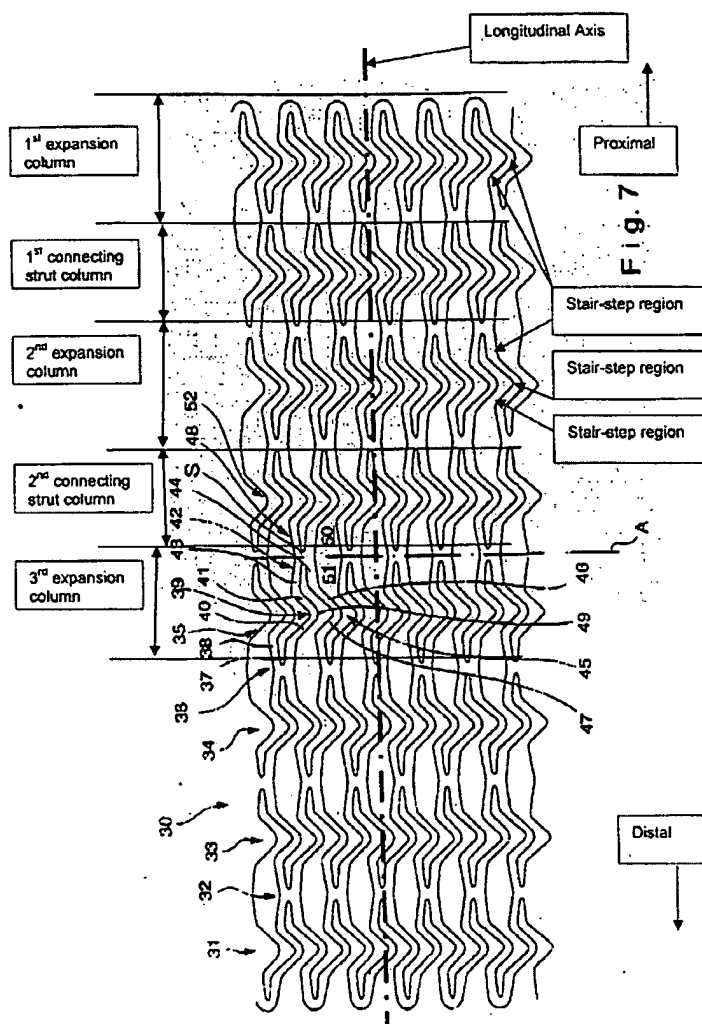
in column 4(B)], at least a portion of each second expansion strut pair having a stair-step region, two adjacent second expansion strut pairs share a common strut;

a first connecting strut column [e.g., 5(A)] including a plurality of non-intersecting individual first connecting struts that couple only the first and second expansion columns [4(A) and 4(B), respectively], wherein each of an individual first connecting strut includes a proximal section [100] and a distal section [102], at least a portion of the proximal section of each first connecting strut extending from a portion of the stair-step region of one of the first expansion struts [50], at least a portion of the distal section of each first connecting strut extending from a portion of the stair-step region of one of the second expansion struts,

each proximal section [100] having a longitudinal axis [115] and each distal section [102] having a longitudinal axis [117], at least one of the longitudinal axis [115] of each proximal section [100] and the longitudinal axis [117] of the distal section [102] being parallel with at least one of a longitudinal axis [e.g., 80, 82] of each first expansion strut and a longitudinal axis [e.g., 80, 82] of each second expansion strut.

Von Oepen does not disclose: (1) a “first connecting strut proximal section ... having a longitudinal axis”; (2) a “first connecting strut distal section ... having a longitudinal axis”; (3) a “longitudinal axis of each first expansion strut”; (4) a “longitudinal axis of each second expansion strut”; (5) “at least one of the longitudinal axis of each proximal section and the longitudinal axis of the distal section being parallel with at least one of the longitudinal axis of each first expansion strut and a longitudinal axis of each second expansion strut.”

The Office Action’s annotated drawing of von Oepen’s Figure 7, shown below depicts a longitudinal axis of the stent, not longitudinal axes of expansion struts and connecting strut portions, as is claimed. Therefore, as discussed previously, Applicant is unable to see how the annotated drawing satisfies all of the claimed limitations.



Applicant reiterates: what is being claimed is longitudinal axes of various parts or portions of a stent, and not the longitudinal axis of the stent as a whole. The Office Action states, with regards to Figure 7, “the Von Oepen stent has a longitudinal axis...” Page 5. The Office Action is discussing the longitudinal axis of the stent, while the claims refer to longitudinal axes of portions of the stent. As a longitudinal axis of the stent is not synonymous with longitudinal axes of portions of the stent, von Oepen has failed to satisfy all of the claimed limitations. Consequently, Applicant requests withdrawal of the rejection of independent claim 1. Applicant further request the finality of the rejection be withdrawn.

Additionally, Applicant requests withdrawal of the rejection of dependent claims 2-10 and 12-23. Claims 2-10 and 12-23 are patentable for at least the reasons discussed with respect to independent claim 1.

Claim Rejections – Section 103

The Office Action rejected claim 8 under 35 USC § 103(a) over von Oepen. This rejection is *traversed*. As discussed above, von Oepen fails to teach or suggest all of the elements claimed in independent claim 1. As claim 8 indirectly depends from claim 1, dependent claim 8 is patentable over von Oepen for at least the reasons discussed above with respect to claim 1, and Applicant requests withdrawal of the rejection.

Conclusion

For at least the reasons presented above, Applicants submit that the application is in condition for allowance. Favorable consideration and early action to that effect are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: February 24, 2009

By: /James M. Urzedowski/
James M. Urzedowski
Registration No.: 48596

6640 Shady Oak Dr., Suite 400
Eden Prairie, MN 55344-7834
Telephone: (952) 563-3000
Facsimile: (952) 563-3001
f:\wpwork\jmu\11280us01_amd_20090126.doc